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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29/04/2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.8202 of 2022

Udhaya @ Udhayakumar

... Petitioner/Accused No.2

Vs

The State rep.by
The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur District.
(Crime.No.238 of 2022).

... Respondent/Complainant

For Petitioner : Mr.Karunakaran, K.M. Advocate.

For Respondent : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

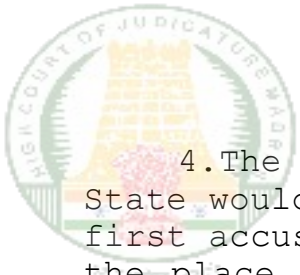
For Anticipatory Bail in Crime No.238 of 2022 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Section 8 (c) and 20(b)(ii)(B) of NDPS Act, 1985, in Crime No.238 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that based on the secret information received, the respondent Police conducted raid and they found that the accused was in possession of Ganja weighing 1.200 kgs. Hence, the present complaint.

3.The learned counsel for the petitioner would submit that there was no recovery from the petitioner and that the petitioner was implicated only on the basis of the confession statement alleged to have taken from the first accused.



4. The learned Additional Public Prosecutor appearing for the State would submit that the entire contraband was recovered from the first accused, that though the petitioner was very much available at the place of occurrence, after seeing the police party, he escaped from the place of occurrence and only on the basis of the confession statement given by the first accused, the petitioner was added as an accused. He would further submit that the petitioner is not having any previous case under NDPS Act.

5. Admittedly, there was no recovery from the petitioner.

6. Considering the above and also the facts that the petitioner was implicated only on the basis of the confession allegedly taken from the first accused and also the fact that the petitioner is not having any previous case under the NDPS Act, this Court is inclined to grant anticipatory bail to the petitioner, but with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Additional District and Sessions Judge/Presiding Officer and Special Court for EC Act Cases, Thanjavur, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Special Judge concerned and on further conditions that:

(a) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner shall report before the respondent police daily at 10.30 am for a period of one month and thereafter, as and when required for interrogation.

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioner shall not abscond either during investigation or trial;

(e) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]**; and;



(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

Sd/-
29/04/2022

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Sub-Assistant Registrar (C.S.IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DAS

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
PRESIDING OFFICER AND SPECIAL COURT FOR
EC ACT CASES, THANJAVUR.
2. THE INSPECTOR OF POLICE,
THANJAVUR TALUK POLICE STATION,
THANJAVUR DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP (MD) No.8202 of 2022
Date :29/04/2022

SP/JM/SAR IV/12/05/2022/3P/4C